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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,465

12/05/2003

Luis E. Luciani JR.

200314490-1

9421

22879

7590

11/03/2008

HEWLETT PACKARD COMPANY  
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INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

DINH, KHANH Q

ART UNIT

PAPER NUMBER

2451

NOTIFICATION DATE

DELIVERY MODE

11/03/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM  
mkraft@hp.com  
ipa.mail@hp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/728,465	<b>Applicant(s)</b> LUCIANI ET AL.	
	<b>Examiner</b> Khanh Dinh	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***DETAILED ACTION***

1. Reopening of Prosecution After Appeal Brief or Reply Brief

In view of the Appeal Brief filed on 8/11/2008, PROSECUTION IS HEREBY REOPENED. The Office Action sets forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

2. Claims 1-6 and 14-20 are presented for examination.

***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a U.S. patent application and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
4. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b).
5. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
6. Claims 1-3 and 14-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-17 of application 10/729,676 filed 12/5/2003.
7. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patent.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-6 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simionescu et al., US Pub. No.20030084337 in view of Zhu et al, US Pub. No.2003/0084169.

As to claims 1 and 14, Simionescu discloses a method comprising:

switching between a default remote console session and a non-default remote console session (using the master device to change the state of operation from normal mode to upgrade mode, see abstract, fig.4, [0033] to [0036]).

Simionescu does not specifically disclose logging into a remote computer by way of a management processor to initiate a remote console session. However, Zhu discloses logging into a remote computer by way of a management processor to initiate a remote console session (allowing user access to a remote computer using remote access software, see abstract, fig.1, [0017] to [0020] and [0037] to [0040]). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Zhu's teaching into the computer of Simionescu to process data information because it would have enabled user to access the target computer during a data

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conference and thus shared applications located on the target computer with other participants of the data conference (see [0008]).

As to claims 2-4, Simionescu discloses that the default remote console session is a hardware-based remote console session and the non-default remote console session is a software-based remote console session, the default remote console session is a software-based remote console session and the non-default remote console session is a hardware-based remote console session and wherein the default remote console session is adjustable between a hardware-based remote console session and a software-based remote console session (see figs.4, [0040] to [0042] and 0047] to [0049]).

As to claims 5-6, Simionescu discloses determining availability of the default remote console session; disabling the non-default remote console session and enabling the default remote console session, logging into the management processor comprising an application specific integrated circuit, a microcontroller and a memory for communication between the remote computer and the management processor (see [0047] to [0050] and [0064] to [0066]).

Claims 15-19 are rejected for the same reasons set forth in claims 2-6 respectively.

As to claim 20, Simionescu discloses ascertains availability of the default remote console session, ensures the coupling of the computer system and the means for providing, disables the non-default remote console session and enables the default remote console session (see fig.5, [0033] to [0036] and [0063] to [0066]).

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-6 and 14-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. Claims 1-6 and 14-20 are rejected.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Commissioner for patents

P O Box 1450

Alexandria, VA 22313-1450

/Khanh Dinh/

Primary Examiner, Art Unit 2151

/John Follansbee/ SPE 2451